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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,472	09/11/2003	Hajime Saito	09867/0200009-US0	4975
7278	7590	03/01/2010		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER THOMAS, ERIC M	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 03/01/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/660,472	SAITO ET AL.	
	Examiner	Art Unit	
	Eric M. Thomas	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 June 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-6,9-11,13-15 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-6,9-11,13-15 and 18-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/28/09, 1/29/10</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

This is in response to the amendments filed on 6/25/09; claims 1 and have been amended, claims 2, 7, 8, 12, 16, and 17 were previously cancelled, and claims 21 - 24 have been added. Claims 1, 3 – 6, 9 – 11, 13 – 15, and 18 – 24 are pending in the current application.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3 – 6, 9 – 11, 13 – 15, and 18 – 20 are provisionally rejected on the ground of nonstatutory double patenting over claims 1, 8, 11, and 17 of copending Application No. 12/113637. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a plurality of gaming machines wherein each of the gaming machines are capable of playing different types of games from each other, that comprises a first and second sending device for sending information, a point storage device, and a trading sending device for trading points that are stored in the point storage device.

This is a provisional obviousness-type double patenting rejection since the conflicting claims have not yet been patented.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3 – 6, 9 – 11, 13 – 15, and 18 – 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (U.S. 6,758,746) in view of Yen (U.S. 5,890,963).

4. Regarding claims 1, 5, 11, and 20 - 24, Hunter provides a game system and method that discloses a plurality of networks to a plurality of players playing a plurality of games, (abstract), a game server that is in communication with a plurality of game machines, (col. 7, lines 22 – 24), that includes a feature that enables players of the game system to obtain points wherein the points can be exchanged for characters playable in the game system (col. 7, lines 53 - 55). This is viewed by the examiner as the points having a trade value and the game system having a trade sending device wherein the points of the player can be traded for characters wherein the characters are viewed as any of a plurality of unique data. Hunter further discloses the game system having a player logon screen wherein the system prompts the player to enter the player's username and password (col. 10, line 66 - col. 11, line 6). This is viewed by the examiner as the game system having a sending device for sending information to a server wherein the information includes identification information that may identify a player and the points associated with the player. Hunter is silent on the issue of that game machines being capable of playing different kinds of games from each other wherein the unique data can be used in a plurality of games and including a converting device. In a related art, however, Yen provides a system and method for game play in a computer network that includes at least one server, (abstract), wherein a player plays a role player type game and scores points based on the game play, (col. 11, lines 1 - 5),

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which is viewed by the examiner as the game system having a converting device, wherein the converting device converts play-information indicating the content's of the users playing into points. Yen further teaches that although the game system 100 in fig. 1 has been described with reference to a game, the game system supports any continuous and progressive virtual environment, basically meaning, with respect to game play, variations include the continuous game play of substantially different games (col. 12, lines 51 – 62). This is viewed by the examiner as the game system being capable of allowing the game machines in the game system to play different kinds of games from each other. Yen further teaches that characters from a Diner game may be used in a different game or gaming environment such as a mountain climbing game or running club game, wherein Yen further teaches that a single server could operate the multiple games. This is viewed by the examiner as game system being capable of allowing a player to use any one of plurality of unique data in any one of the games. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Yen into the art disclosed by Hunter in order to enable progressive and continuous game play in a game environment for enabling multiple players to enter multiple game environments, and for enabling players to maintain current knowledge and assets between game environments.

5. Regarding claims 3, 6, 13, and 14, Hunter provides a game system that discloses a game server that is in communication with a plurality of game machines, (col. 7, lines 22 – 24), that includes a plurality of databases that store information about games, game players, and characters (col. 6, lines 49 – 52). The examiner views this as a data

storage device for storing user available data wherein the identification information and at least one of the pluralities of unique data are associated with each other. Hunter further teaches the game system having a character database, wherein as stated above, the system includes a feature that enables players of the game system to obtain points wherein the points can be exchanged for characters playable in the game system (col. 7, lines 53 - 55). This is viewed by the examiner as the system having a storage control device that is capable of receiving a trade request to trade anyone of plurality of unique data corresponding to a value obtained by subtracting points corresponding to the unique data to be traded and allowing the unique data exchanged, be made available to the player.

6. Regarding claim 4, as stated above, Hunter further discloses the game system having a player logon screen wherein the system prompts the player to enter the player's username and password, which is required before the player to begin playing a game (col. 10, line 66 - col. 11, line 6). This is viewed by the examiner as the system having a device that stores authentication information for verifying the player's identification and the points associated with the player.

7. Regarding claims 9 and 18, Hunter provides a game system that discloses a game server that is in communication with a plurality of game machines, (col. 7, lines 22 – 24), that includes a plurality of databases that store information about games, game players, and characters, (col. 6, lines 49 – 52), wherein the player is prompted to enter a username and password, which is required before the player to begin playing a game (col. 10, line 66 - col. 11, line 6). This is viewed by the examiner as the game system

having a data storage device that stores the identification of the player wherein a server receives identification information corresponding to the player and linking the player to the game system

8. Regarding claim 10, Hunter provides a game system that discloses a game server that is in communication with a plurality of game machines wherein the game system may include a CD-ROM (col. 7, lines 1 - 4). This is viewed by the examiner as the system comprising a readout device that is capable of reading out and sending information to the server.

9. Regarding claim 19, Hunter provides a game system that discloses a plurality of networks to a plurality of players playing a plurality of games, (abstract), a game server that is in communication with a plurality of game machines, (col. 7, lines 22 – 24), wherein the player is prompted to enter a username and password, which is required before the player to begin playing a game, (col. 10, line 66 - col. 11, line 6), that includes a feature that enables players of the game system to obtain points wherein the points can be exchanged for characters playable in the game system (col. 7, lines 53 - 55). This is viewed by the examiner as a communication network that includes a server that controls individual identification information for identifying a user and data available to the user and linking the user to the gaming network. Hunter further discloses that the system may include a CD-ROM, (col. 7, lines 1 - 4), which is viewed by the examiner as a readout device that is capable of reading out information from a storage medium storing information. As stated above, Hunter further discloses the game system having a player logon screen wherein the system prompts the player to enter the player's

username and password, which is required before the player to begin playing a game (col. 10, line 66 - col. 11, line 6), which is viewed by the examiner as the system having an input device for inputting common identification information and sending the information to a server, but Hunter is silent on the issue of that game machines being capable of playing different kinds of games from each other. In a related art, however, Yen provides a system for game play in a computer network that includes at least one server, (abstract), wherein Yen teaches that although the game system 100 in fig. 1 has been described with reference to a game, the game system supports any continuous and progressive virtual environment, basically meaning, with respect to game play, variations include the continuous game play of substantially different games (col. 12, lines 51 – 62). This is viewed by the examiner as the game system being capable of allowing the game machines in the game system to play different kinds of games from each other. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Yen into the art disclosed by Hunter in order to enable progressive and continuous game play in a game environment for enabling multiple players to enter multiple game environments, and for enabling players to maintain current knowledge and assets between game environments.

Response to Arguments

10. Applicant's arguments filed on 6/25/09 have been fully considered but they are not persuasive. Regarding independent claims 1, 11, 19, and 20, Applicants argue that "neither Hunter nor Yen, alone or in combination, teach or suggest Applicants claimed converting devices that converts and accumulates a user's play-information in each of a

number of unrelated games to a common set points according to the contents of the user's play-information and distinct rules of conversion for each type of game", the Examiner does acknowledge that Hunter is silent with regard to at least these features, the Applicants specifically are arguing the Examiner's secondary reference, Yen, does not overcome the deficiencies of Hunter. The Examiner respectfully disagrees. It is argued that the present invention differs from Yen, because Yen does not disclose the use of "unrelated" games, wherein some examples are a music game machine, a mah-jongg game machine, or an action game machine. However, in response to the applicant's argument that the references fail to show at least features of the applicant's invention, it is noted that these features upon which applicant relies as are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is claimed that the gaming machines being capable of playing different kinds of games from each other, as stated in claim, wherein as disclosed in the Yen reference, with respect to game play, the game system supports any continuous and progressive virtual environment, wherein the variations include the continuous game play of substantially different games (col. 12, lines 54 - 59). This is viewed by the Examiner in combination with Hunter as a plurality of game machines being capable of playing different kinds of games from each other, thus the Examiner maintains the present invention obvious over Hunter in view of Yen.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714